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6 Attorneys for Creditor  
US Bank Trust NA as trustee of the Dwelling Series IV Trust

7 UNITED STATES BANKRUPTCY COURT  
8  
9 SOUTHERN DISTRICT OF CALIFORNIA – SAN DIEGO

10 In re: ) Case No.: 21-00386-LA13  
11 )  
12 **Anthony Leo Gril** ) GB-1  
13 )  
14 Debtors. ) Chapter 13  
15 )  
16 ) OBJECTION TO CONFIRMATION OF  
17 ) DEBTOR’S PLAN  
18 )  
19 )  
20 ) Property: 4444 West Point Loma Blvd Unit 1  
21 ) San Diego, CA 92107  
22 )  
23 )  
24 )  
The Honorable Judge Louise DeCarl Adler

1 TO THE HONORABLE JUDGE LOUISE DECARL ADLER, UNITED STATES  
2 BANKRUPTCY JUDGE, THE DEBTORS, THEIR ATTORNEY OF RECORD AND THE  
3 CHAPTER 13 TRUSTEE, DAVID L SKELTON:

4 US Bank Trust NA as trustee of the Dwelling Series IV Trust, (“**Creditor**”), a secured  
5 creditor of the above-named Debtors hereby objects to the confirmation of Debtors’ Chapter 13  
6 Plan (the “**Plan**”) on the grounds that the Plan does not comply with the provisions of Chapter 13  
7 of Title 11, United States Code, and with other applicable provisions of said Title 11.

8 This objecting Creditor holds a deed of trust on the Debtor’s real property commonly  
9 described as 4444 West Point Loma Blvd Unit, San Diego, CA 92107 (the “**Property**”), which  
10 is Debtors’ principal residence. Creditor is entitled to receive payments pursuant to a Promissory  
11 Note which is secured by a Deed of Trust on the subject property As of 1/31/21, the approximate  
12 amount in default was \$22,483.49, as will be described in the forthcoming Proof of Claim filed  
13 by Creditor; Creditor files this Objection to protect its interests.

14 **I**

15 **ARGUMENT**

16 Application of the provisions of *11 United States Code Section 1325* determines when a Plan  
17 shall be confirmed by the Court. Based on the foregoing, as more fully detailed below, the Plan  
18 cannot be confirmed as proposed because the Plan does not comply with the provisions of  
19 Chapter 13 of the United States Bankruptcy Code.

20 **A. THE PLAN IS INTERNALLY INCONSISTENT**

21 Section 3.5 of the Plan provides that Creditor’s claim is intentionally excluded from the plan.  
22 Section 3.1 of the Plan lists Creditor’s Claim and provides a treatment for it. Because the claim is  
23  
24

1 both treated and excluded under the plan the plan is internally inconsistent and cannot be  
2 confirmed

3  
4 **B. IMPERMISSIBLY MODIFIES CREDITOR’S RIGHTS**

11 U.S.C. §1322(b)(2)

5 The Plan modifies the rights of a creditor whose claim is secured only by a security  
6 interest in real property that is Debtors’ principal residence in violation of 11 U.S.C. §1322(b)(2)  
7 by not providing for payments towards Creditor’s arrears. Section 3.1 of The Debtors’ Modified  
8 Plan, which governs treatment of secured claims, lists Creditor’s claim as having \$0.00 in  
9 arrears. The actual arrears are approximately \$22,483.49, as will be listed in creditor’s  
10 forthcoming proof of claim. The Debtors must provide for the cure of Creditor’s arrears.

11  
12 **C. DOES NOT MEET FULL VALUE REQUIREMENT**

11 U.S.C. §1325(a)(5)(B)(ii)

13 The Debtors’ Plan does not provide for cure of the pre-petition arrears owed to  
14 Creditor. The pre-petition arrears owed to Creditor are no less than approximately \$22,483.49.  
15 Debtors’ Plan does not provide for payment of any arrears owed to Creditor in Section 3.1 of  
16 the plan. Accordingly, Debtors will be required to amend their Plan to fully provide for the  
17 pre-petition arrears owed to Creditor. Since Debtors’ Plan does not provide for cure of the  
18 default of the pre-petition arrears owed to Creditor, the Plan does not meet the full value  
19 requirement and fails to satisfy 11 U.S.C. §1325(a)(5)(B)(ii).

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23 ///

1 WHEREFORE, Creditor objects to confirmation of the Plan and requests as follows:

- 2 a. Confirmation of the Proposed Chapter 13 Plan be denied; or, in the alternative,  
3 b. Debtor's plan be amended to provide for the full cure of creditor's arrears.  
4 c. For such other relief as this Court deems proper.

5  
6 DATED: March 11, 2021

GHIDOTTI BERGER

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8 By: /s/ Adam Thursby Esq.  
Adam Thursby, Esq.  
9 Attorney for Deutsche Bank National Trust  
Company, as Certificate trustee on Behalf of Bosco  
10 Credit II Trust Series 2010-1  
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CSD 3010 [07/01/18]

Name, Address, Telephone No. &amp; I.D. No.

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**UNITED STATES BANKRUPTCY COURT**

SOUTHERN DISTRICT OF CALIFORNIA

325 West F Street, San Diego, California 92101-6991

In Re  
Anthony Leo Gril

Debtor.

BANKRUPTCY NO. 21-00386

Plaintiff(s)

ADVERSARY NO. GB-1

v.

Defendant(s)

**PROOF OF SERVICE**

I, Jeremy Romero am a resident of the State of California, over the age of 18 years, and not a party to this action.

On 3/27/2020, I served the following documents:

Objection to Confirmation of Debtor's Plan

**1. To Be Served by the Court via Notice of Electronic Filing ("NEF"):**

Under controlling Local Bankruptcy Rules(s) ("LBR"), the document(s) listed above will be served by the court via NEF and hyperlink to the document. On 3/12/2021, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the e-mail address(es) indicated and/or as checked below:

Debtor's Counsel: Maria J. Nunez, mnunez@nunezlawfirm.com, anunez@nunezlawfirm.com

☐

Chapter 7 Trustee:

☒

For Chpt. 7, 11, &amp; 12 cases:

UNITED STATES TRUSTEE  
ustp.region15@usdoj.gov

☐

For ODD numbered Chapter 13 cases:

THOMAS H. BILLINGSLEA, JR., TRUSTEE  
Billingslea@thb.coxatwork.com

☒

For EVEN numbered Chapter 13 cases:

DAVID L. SKELTON, TRUSTEE  
admin@ch13.sdcoxmail.com  
dskelton13@ecf.epiqsystems.com

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2. **Served by United States Mail:**

On 3/12/2021, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing accurate copies in a sealed envelope in the United States Mail via 1) first class, postage prepaid or 2) certified mail with receipt number, addressed as follows:

Debtor: Anthony Leo Gril, 4444 West Point Loma Blvd, Unit 1, San Diego, CA 92107

3. **Served by Personal Delivery, Facsimile Transmission, Overnight Delivery, or Electronic Mail:**

Under Fed.R.Civ.P.5 and controlling LBR, on \_\_\_\_\_, I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission, by overnight delivery and/or electronic mail as follows:

I declare under penalty of perjury under the laws of the United States of America that the statements made in this proof of service are true and correct.

Executed on 3/12/2021  
(Date)

/s/ Jeremy Romero  
(Typed Name and Signature)

1920 Old Tustin Ave.  
(Address)

Santa Ana, CA 92705  
(City, State, ZIP Code)